

Appl. No. 10/060,124  
Amdt. dated February 9, 2004  
Reply to Office Action of October 9, 2003

## **REMARKS / ARGUMENTS**

### **Claim Objections**

Claims 3, 4, and 9 were objected to in the office action because the word “programmed” was spelled as “programed.” While the objected to claims were canceled, all new claims contain the spelling noted in the office action.

### **Claim Rejections - 35 USC § 112**

Claims 2-4 were rejected in the office action as being vague and indefinite for failing. Applicants have canceled the rejected claims and respectfully submit that the new claims added to the application comply with the statutory requirements.

### **Claim Rejections - 35 USC § 101**

Claims 3, and 6-9 were rejected because the claims were rejected to non-statutory subject matter. Applicants believe that the amended and new claims in the listing of claims above are in compliance with the statutory requirements.

### **Claim Rejections - 35 USC § 102(b)**

The office action states that claims 1-9 are rejected under 35 USC § 102(b) as being anticipated by the Play Dao website. Claim 1 was also rejected under 35 USC § 102(b) as being anticipated by a Kerry Handscomb review from Abstract Games Magazine, which was available on the Play Dao website. The copyright displayed on the website is 1999

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Jeffery S. Pickering, the first named inventor in this application, is the owner of the Play Dao web site. Mr. Pickering established the web site in December of 1999, but the web site contained no information that described the game, the playing surface, or the playing area at that time. The information disclosing the board game (the "About Dao" link) was placed on the web site in May of 2000. This was less than one year before applicants filed a provisional patent application on January 30, 2001.

The issue of Abstract Games Magazine having the Handscomb article went on sale in July of 2001, which is after Applicants had filed their provisional application. The article was placed on the web site after the magazine went on sale. The PLAY ON-LINE version of the game, and references to playing the game on a computer were placed on the website in October of 2001, again well after Applicants had filed their provisional application.

Applicants submit the Declaration of Jeffery S. Pickering as an appendix to this response, and argue that the rejection based on the web site is not appropriate because the cited references were not placed on the web site more than one year prior to Applicant's provisional application.

Claim 1 of the application was also rejected under 35 USC § 102(b) as being anticipated by U.S. Patent No. 5,308,080, issued to Lamie. Applicants have amended claim 1 to more distinctly show the differences between their board game and that disclosed by Lamie.

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### CONCLUSION

By the foregoing amendments, the cancellation of claims 2-4 and 7-9, the addition of new claims 10 -17 and the arguments/remarks, Applicants believe that they have responded fully to all of the concerns expressed in the Office Action, and believe that they have placed each of the pending claims in condition for immediate allowance. Early favorable action in the form of a Notice of Allowance is urged. In the event that the Examiner has any further concerns, Applicants requests a call to Applicants' attorneys David L. Garrison or William L. Haynes at (206) 441-3440.

Respectfully submitted,

***Garrison & Associates PS***



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